

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 18367 OF 2023
IN
COMMERCIAL ARBITRATION APPEAL (LODG.) NO. 32887 OF 2023

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Solapur Agricultural Produce Market Committee, .. Applicant
Solapur through Authorised Signatory
Dattatraya A. Suryawanshi

In the matter between :

Solapur Agricultural Produce Market Committee,
Solapur through Authorised Signatory
Dattatraya A. Suryawanshi .. Appellant

Versus

1. M/s. Laxmi Construction Company Engineers
and Contractors & Anr. ...Respondents

Mr.Abhijit Kulkarni a/w. Mr.Chinmay Patil i/b Abhijit Associates,
Advocate for Applicant/Appellant.

Mr.Sanket Kulkarni a/w. Mr.Amitabh R. Singh, Advocate for
Respondent No.1 (through VC).

**CORAM : B.P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : JANUARY 24, 2024.

P C:

1. The above Interim Application is filed seeking a stay on the

implementation and execution of the impugned Arbitral Award, dated 4th June 2012.

2. The learned Advocate appearing on behalf of the Applicant/Appellant submitted that according to the Appellant, the entire decretal amount has been deposited by the Appellant before the Executing Court. He submitted that an application has been made by Respondent No.1 herein (Original Claimant) before the Executing Court for withdrawal of the amount deposited. The Executing Court has allowed the Original Claimant to withdraw the amount of Rs.3,83,74,888/- simplicitor on giving an undertaking and a surety bond. He submitted that this kind of order would not adequately secure the interest of the Appellant, if they were to succeed in the above Appeal. He, therefore, submitted that Original Claimant, if it wants to withdraw the amount, should give adequate security so that in the event the Appellant succeeds, the monies deposited by them before the Executing Court can be brought back.

3. On taking instructions, the learned Advocate appearing on behalf of the Original Claimant, submitted that it shall furnish a bank guarantee to the Executing Court for the amount that it wishes to withdraw from the said Court, and it shall not withdraw any amount which is not covered

under the bank guarantee.

4. Once this is the statement made by the learned Advocate appearing on behalf of the Original Claimant, and which is accepted as an undertaking given to this Court, we find that the apprehension of the Appellant is adequately redressed. We, therefore, direct that the Original Claimant shall be permitted to withdraw the amount deposited before the Executing Court on furnishing a bank guarantee of a nationalised bank for the said amount.

5. The Interim Application is accordingly disposed of. No order as to costs.

6. We now place the above Appeal for admission on 20th February 2024.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B.P. COLABAWALLA, J.]